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10/743,744	12/24/2003	Simo Makimattila	1381-0305P	9093
2292 7590 09/24/2010 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER MAGUIRE, LINDSAY M				
ART UNIT 3693		PAPER NUMBER		
NOTIFICATION DATE 09/24/2010		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

# Office Action Summary

**Application No.**

10/743,744

**Applicant(s)**

MAKIMATTILA, SIMO

**Examiner**

LINDSAY M. MAGUIRE

**Art Unit**

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 August 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-29 and 31-56 is/are pending in the application.
- 4a) Of the above claim(s) 54-56 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-29 and 31-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-06)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This Non-Final rejection is in response to the application filed on December 24, 2003, amendments filed January 14, 2008, amendments filed June 25, 2008, amendments filed January 15, 2009, the Request for Continued Examination filed October 28, 2009, the amendments filed on April 2, 2010, and the Request for Continued Examination filed on August 4, 2010.

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 4, 2010 has been entered.

#### ***Election/Restrictions***

Newly submitted claims 54-56 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the recitation, "generating an elevator call through said reader based on the personal data such that the elevator call is generated when the reader reads the access device" in lines 5-6 of claim 54, similarly recited in claims 55 and 56, is a new recitation that departs from the originally filed scope of the claims. Specifically, there is nothing in the originally filed

claims that recites how calls are generated and when calls are generated on an elevator as the originally filed claims are drawn to repayment of elevator investment costs using an access device.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 54-56 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14, 18, 21, 24-29, 32-35, 37, 40-42, 46, 49, and 50-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,354,405 (Svensson-Hilford), in view of Octopus, "Corporate Profile: Our History" (Octopus).

In regard to claim 14, Svensson-Hilford discloses a method for repayment of the investment costs of an elevator for a new elevator installation, said method comprising the steps of:

Providing an access device that allows a passenger to access the elevator (abstract);

collecting identifying data of a passenger wanting to use the elevator by reading an access device associated with identifying data of said passenger (e.g. "tokens, tokens with electronic chips, prepayment cards, keys with data carriers with individual data relating to the user, and card or other data carriers with individual data relating to the user" col. 3, lines 25-35) with a reader device ("identification device 15") connected to a control system ("calculation device" 16) for said elevator, wherein said identifying data comprises at least one of a unique identification number, a name, an address, relevant age and health information, and relevant group affiliation or access permission information (see col. 3, lines 25-35);

identifying the passenger based on said identifying data ("identification device 15, which may take the form of, for example, a read/write device, is provided for the purpose of identifying user data and/or means of payment" col. 2, line 67 – col. 3, line 5);

determining the desired destination floor for said passenger (col. 4, lines 45-65; Fig. 4, item S2);

verifying that said passenger is authorized to access said elevator to reach said destination floor wherein elevators said passenger may use and destination floors said passenger may reach using any one of said elevators are determined based on group

affiliation, address, or access permission information contained in said identifying data (see col. 4, lines 28-35);

transmitting passenger identification, authorization and desired floor information to said elevator control system for processing (see col. 4, lines 6-27); and

charging said passenger based on said identifying data (see col. 5, line 50 – col. 6, line 14; Fig. 4), wherein said charging comprises: tracking elevator usage by said passenger (see e.g., col. 4, lines 45-65), determining an appropriate billing party based on passenger identification (see e.g. col. 4, line 66 – col. 5, line 30), and assessing a usage charge to said passenger, after said determining and said verifying steps, based on factors including at least one of frequency of use, length of elevator ride, time and date of use, number of rides, relevant passenger affiliation, passenger age or health information, passenger address, and direction of elevator travel such that repayment costs are distributed amongst elevator users on a passenger-specific basis (see col. 4, lines 45-65; col. 5, line 30 – col. 6, line 14).

Svensson-Hilford discloses the method substantially as claimed with the exception of including that said access device further allows said passenger to access and pay for travel on other means of transport. Octopus discloses a smart card (paragraph 1) that can be used on multiple modes of transportation (paragraph 3). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Svensson-Hilford, in view of the teachings

of Octopus, so that the access device can be used to pay for multiple means of transportation for the basic reason of combining a known function to yield a predictable result of added connivance for the user.

In regard to claim 18, Svensson-Hilford further discloses wherein said access device is an identity card or a personal identification card or a health insurance card or a student card or a driver's license or a party membership card (see col. 3, lines 25-35).

In regard to claim 21, Svensson-Hilford further discloses that each passenger is charged a different sum for the use of said elevator based at least on the desired destination floor of each passenger (see col. 4, lines 45-65).

In regard to claim 24, Svensson-Hilford further discloses said passenger type information further comprising at least one of group affiliation, access level, address and unique passenger identifier (see col. 3, lines 25-35).

In regard to claim 25, Svensson-Hilford further discloses that said reader device is installed inside of said elevator (see col. 2, lines 65-67).

In regard to claim 26, Svensson-Hilford further discloses that the times of use of an elevator by a passenger are registered separately for each passenger by said reader device (see SUMMARY OF INVENTION).

In regard to claim 27, Svensson-Hilford further discloses that said reader device is connected to a floor selection device, allowing said passenger to call an elevator by properly interacting with said reader device, causing the elevator control system to allow the selection of a destination floor in accordance with said passenger's identifying data (see col. 2, lines 30-61).

In regard to claim 28, Svensson-Hilford further discloses that said reader device is installed in an elevator lobby ("Floor E0" see col. 2, lines 65-67).

In regard to claim 29, Svensson-Hilford further discloses that said reader device is connected to an elevator call device, allowing a passenger to call an elevator by properly interacting with said reader device, causing the elevator control system to issue an elevator call in accordance with said identifying data (see FIG. 2; col. 2, lines 30-61).



Claims 32 and 40 are rejected as anticipated by Svensson-Hilford in view of Octopus as applied above. Svensson-Hilford discloses the method set forth and an access device and system for implementing the method, wherein said access device and system distribute the costs thereby shortening the time period for full repayment of elevator investment costs.

In regard to claims 33 and 34, Svensson-Hilford further discloses said data storage unit comprising personal data and an optically readable sequence of symbols (see above rejections).

In regard to claim 35, Svensson-Hilford further discloses said reader interaction unit comprising an optically readable sequence of symbols (see above rejections).

In regard to claim 37, Svensson-Hilford further discloses a computer memory device ("database").

In regard to claim 41, Svensson-Hilford further discloses charges being incurred when a user reaches an accessible floor (see above rejections).

In regard to claim 42, Svensson-Hilford further discloses charges based on the calling of an elevator (see above rejections).

In regard to claim 46, Svensson-Hilford further discloses said access device comprising an optically readable sequence of symbols (see above rejections).

In regard to claims 49 and 50, Svensson-Hilford further discloses storage of passenger billing information (see col. 5, lines 16-30).

In regards to claims 51, 52, and 53, Svensson-Hilford in view of Octopus further discloses that said other means of transport include at least one of public transportation systems, taxis, trains, ships, and airplanes (Octopus: paragraphs 3-5).

Claims 15-17, 19, 20, 22, 23, 36, 38, 39, 43-45, 47 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Svensson-Hilford in view of Octopus as applied above, and in further view of Admitted Prior Art.

In regard to claims 15-17, 19, 20, 36, 38, 43-45, 47, and 48 Svensson-Hilford in view of Octopus discloses all of the limitations of claims 14, 32 and 40 but does not expressly disclose that said access device comprises radio-frequency identification, a

magnetic strip with personal encoded data, an optically readable access code affixed to a surface, an electronically readable sticker, or Bluetooth. In the Office Action mailed April 29, 2009 the Office took Official Notice that at the time of the invention, it was well known in the art of electronic communication and identification to use radio-frequency identification, magnetic strips with personal encoded data, optically readable access codes affixed to surfaces, electronically readable stickers, and Bluetooth as a means for identifying a person or thing with a reader device such as the reader device disclosed by Svensson-Hilford. Additionally, in applicant's response filed October 28, 2009 and arguments filed July 29, 2009, applicant failed to traverse that at the time of the invention, it was well known in the art of electronic communication and identification to use radio-frequency identification, magnetic strips with personal encoded data, optically readable access codes affixed to surfaces, electronically readable stickers, and Bluetooth as a means for identifying a person or thing with a reader device such as the reader device disclosed by Svensson-Hilford.

"If applicant does not traverse the examiner's assertion of the official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of the official notice or that the traverse was inadequate."

(MPEP 2144.03 (C))

Accordingly, at the time of the invention, it was well known in the art of electronic communication and identification to use radio-frequency identification, magnetic strips

with personal encoded data, optically readable access codes affixed to surfaces, electronically readable stickers, and Bluetooth as a means for identifying a person or thing with a reader device such as the reader device disclosed by Svensson-Hilford, is now taken as admitted prior art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the reader device of Svensson-Hilford, in view of the admitted prior art, to utilize the various identification methods listed above to identify a passenger in the elevator system, for the basic reason of that using the various identification techniques would be to provide access devices that are unique to the individual using the device, simple to use, and difficult to copy.

In regard to claims 22, 23, and 39 Svensson-Hilford in view of Octopus discloses the limitations of claim 14 as set forth above and further discloses the collection of statistical data regarding the use of said elevator, said statistical data comprising date, time, travel distance, travel direction, currency and balance information and passenger type information. Svensson-Hilford in view of Octopus fails to disclose explicitly the collection of passenger group affiliation and health and age data and the use of that data to determine different sums charged. In the Office Action mailed April 29, 2009 the Office took Official Notice that at the time of the invention, it was well known to gather customer or payer data related to age and/or health in order to provide customers/payers with a discount when they meet certain criteria, for example a "senior discount." Additionally, in applicant's response filed October 28, 2009 and arguments

filed July 29, 2009, applicant failed to traverse that at the time of the invention it was well known to gather customer or payer data related to age and/or health in order to provide customers/payers with a discount when they meet certain criteria, for example a "senior discount."

"If applicant does not traverse the examiner's assertion of the official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of the official notice or that the traverse was inadequate."  
(MPEP 2144.03 (C))

Accordingly, at the time of the invention it was well known to gather customer or payer data related to age and/or health in order to provide customers/payers with a discount when they meet certain criteria, for example a "senior discount," is now taken as admitted prior art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the data gathering system of Svensson-Hilford, in view of admitted prior art, to gather data related to passenger/payer age and/or health and further to use that information in the calculation of prices, for the purpose of providing a discount to passengers meeting certain criteria, for the basic reason that doing so would be to incentivize the use of the elevator system.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Svensson-Hilford in view of Octopus as applied to claim 14 above, and further in view of US Patent No. 6,205,433 to Boesch et al.

In regard to claim 31, Svensson-Hilford in view of Octopus discloses the limitations of claim 14 but fails to disclose explicitly that said reader device determines an appropriate currency in which to charge said passenger based on said passenger's identifying information. Boesch et al. disclose a system and method for multi-currency transactions wherein the appropriate currency to charge a customer is determined as a function of that customer's identifying data (see abstract). Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to apply the currency determination taught by Boesch et al. to the system of Svensson-Hilford/Octopus to enable international customers to use and be charged for their use of the elevator system.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1—29 and 31-56 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINDSAY M. MAGUIRE whose telephone number is (571)272-6039. The examiner can normally be reached on M-F: 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kramer James can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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9/14/10  
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Examiner, Art Unit 3693